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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,140	10/25/2000	Rinya Takesue	Q61468	3589

7590

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EXAMINER

BUTTNER, DAVID J

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 01/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/695,140

Applicant(s)

TAKESUE ET AL.

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12. 6) ☐ Other:

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Claims 12, 13, 15, 16 and 18 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Statz 2002/0091188 Publication.

Statz claims (#8) blends of E/acid or E/acid/acrylate copolymer, an organic acid, thermoplastic elastomer and cation source as cores or mantles or one piece golf balls. Examples 10a, 10b and 10c use stearic acid and magnesium hydroxide in amounts corresponding to applicant's claims and with the appropriate melt index. The acid copolymer may also be partially neutralized beforehand (paragraph 46). Note that applicant's blend of un-neutralized E/acid + neutralized E/acid is equivalent to a lower neutralized E/acid. Application 9/422142 filed 10/21/99 has basis for these limitation. The provisional applications have not been reviewed.

Statz '571 (col 4 line 57-69) can be cited for a discussion of metal lability in ionomers.

Claims 12-15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Chen '321 Patent.

Chen adds stearic acid or metal stearates to ethylene/acid/acrylate ionomers to form golf ball cores, mantles, covers or one piece balls. This is the same final product as produced by applicant's "post neutralization" process of adding (c) subsequently or simultaneously to the combination of (a) and (b). In effect, Chen "preblended" applicant's (a) and (c) prior to adding (b). The alternative processes would be expected to produce equivalent products if the same overall amounts are used of each component.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Chen '321 Patent in view of the Statz 2002/0091188 Publication.

Chen neutralizes the terpolymer prior to adding the fatty acid, rather than neutralizing subsequently or simultaneously with combining the E/acrylate/acid terpolymer and fatty acid.

This "post neutralization" is known to ease processability (see paragraph 48 of the Statz publication). This is because the melt index of the terpolymer decreases upon neutralization. It would have been obvious to first combine the terpolymer and processability improving fatty acid, rather than add preneutralized ionomer to the fatty acid for the expected advantages.

Claims 13 and 15 provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over the claims of copending Applications 9-906638 and 9-906844. Although the claims are not identical, they are not patentably distinct as all call for substantially the same composition as an inner cover of a golf ball.

This is a provisional obviousness type double patenting rejection because the conflicting claims have not yet been patented.

Claims 12-18 provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over the claims of copending Applications 9-994729. Although the claims are not identical, they are not patentably distinct as both call for substantially the same composition in a golf ball.

This is a provisional obviousness type double patenting rejection because the conflicting claims have not yet been patented

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 703-308-2403. The examiner can normally be reached on Weekdays from 10:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

DAVID J. BUTTNER  
PRIMARY EXAMINER

D. Buttner/mn  
January 21, 2003

